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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/700,483

11/05/2003

Akio Aoyama

NEC03P166-RIa

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04/14/2009

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC

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SUITE 200

VIENNA, VA 22182-3817

EXAMINER

CASCA, FRED A

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

04/14/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/700,483	Applicant(s) AOYAMA, AKIO
Examiner FRED A. CASCA	Art Unit 2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
see below.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/VINCENT P. HARPER/
 Supervisory Patent Examiner, Art Unit 2617

In response to applicant's arguments with respect to reference Desagne, the examiner respectfully asserts that Desagne discloses detecting as a trigger (see col. 3, line 4, "handoff"), measuring signal strength and transmitting the measured signal strength to a server (col. 3, lines 45-46). Thus, Desagne's measuring of signal strength after detection of a handoff reads on the limitation, acquiring a reception status of a radio signal when said trigger is detected.

In response to arguments that claim 8 is not analogous to claim 1, the examiner respectfully disagrees. The examiner asserts that, in claim 1, detecting a trigger when the communication status is changed does not happen magically. In other words, some activity must have happened in order for the mobile terminal to perform the detection. Gallagher's handoff occurs due to weaker signal strengths transmitted from a base station. Thus, the weaker signal strengths transmitted from the base station reads on "server, sending trigger information serving as a measuring trigger." Applicant's interpretation of the claim 8 has been thoroughly considered, however, the features upon which the applicant relies are not cited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The claim language is very broad and can have multiple interpretations. A trigger in response to a change of communication status can have multiple interpretations including handoff due to weak signal strength.

In response to arguments that Gallagher fails to disclose "in said mobile radio terminal, when said trigger information is received, acquiring status of a radio signal; acquiring a coordinate position of said mobile terminal; and sending measured information including said reception status and said coordinate position to said information collecting server," the examiner respectfully disagrees.

Examiner asserts that the phrase "in said mobile radio terminal, when said trigger information is received" is interpreted (Gallagher's weaker signals received to the mobile terminal), the phrase "acquiring status of a radio signal" is interpreted as (Gallagher's measuring the RSSI), "acquiring a coordinate position of said mobile terminal" is interpreted as (Sekiyama's mobile terminal sending its GPS position to a base station). Thus, every element of the claims is disclosed in one of the three references.

In response to arguments with respect to claim 8 that the feature, "the server sends a specific triggering signal, and the mobile radio unit responds to the server in a predetermined manner," the examiner asserts that the features (e.g., the server sends a specific triggering signal, and the mobile radio unit responds to the server in a predetermined manner) upon which the applicant relies are not cited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The aforementioned features need to be inserted in the claims in order to be examined.